

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MATTIE MOORE

v.

DILLARD'S, INC.

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CIVIL ACTION NO.

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW COMES MATTIE MOORE, hereinafter referred to as Plaintiff, complaining of DILLARDS, INC., hereinafter referred to as Defendant, and for cause of action would respectfully show unto the Court and jury the following, to-wit:

1. Plaintiff is a citizen of Tyler, Smith County, Texas.
2. Defendant, DILLARD'S, INC. is a Delaware Corporation, licensed to do business in the State of Texas, and may be served by certified mail, return receipt requested, through its agent for service, CT Corp System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

JURISDICTION AND VENUE

3. The court has proper jurisdiction over this case pursuant to 28 U.S.C. §1332 of the United States Code. Diversity of citizenship exists in connection with this case and the amount of controversy is in excess of seventy-five thousand (\$75,000.00) dollars, exclusive of interest and costs.

STATUTE OF LIMITATIONS

4. Plaintiff alleges this lawsuit has been filed within the time period of the appropriate

statute of limitations from the date of the occurrence. In the alternative, Plaintiff alleges the statute of limitations is tolled because this lawsuit has been filed within two (2) years of the date Plaintiff knew or should have known of the existence of a cause of action, or any delay is the result of direct threats or fraud on the part of the Defendants.

FACTS OF THE CASE

5. Plaintiff would show that on or about September 10, 2015, Plaintiff was on the premises of Defendant's store, located in Tyler, Texas, as an invitee to purchase goods. While on the escalator, suddenly and without warning the escalator malfunctioned, throwing Plaintiff to the floor. Plaintiff would show that she sustained severe and disabling injuries.

CAUSE OF ACTION

6. Plaintiff alleges that the Defendant was negligent, and such negligence was a proximate cause of the incident and injuries in question. Plaintiff's resulting injuries and damages were proximately caused by one or more of the following acts of negligence:

- a. failing to perform routine maintenance on the escalator;
- b. failing to inspect and repair the escalator;
- c. failing to warn Plaintiff that the escalator could malfunction and cause serious injury;
- d. Defendant was negligent in other respects.

7. As a direct and proximate result of the negligence of Defendant as set forth above, Plaintiff fell and injured herself while on Defendant's property.

DAMAGES

8. Plaintiff's damages include past, and probable future loss, which includes:

- (a) pain and mental anguish;
 - (b) loss of earnings and earning capacity;
 - (c) physical impairment;
 - (d) disfigurement; and
 - (e) necessary medical, psychological, psychiatric, therapeutic, pharmaceutical and hospital care, including rehabilitative services and devices.
9. Plaintiff alleges that her damages exceed the minimum jurisdictional limits of this Court.
10. Plaintiff requests that a jury be convened to try the factual issues in this cause.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for issuance of service of citation upon Defendant for actual damages, costs of Court, prejudgment and post-judgment interest, punitive and/or exemplary damages, attorney's fees, and such other and further relief, general and special, legal and equitable to which Plaintiffs may be justly entitled.

Respectfully submitted,

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By: /s/ Luke F. Bickham

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ATTORNEY IN CHARGE